

**Amendments to the Drawings:**

The attached sheet of drawings includes changes to Figure 3. This sheet, which includes Fig. 3, replaces the original sheet including Fig. 3.

Attachment: Replacement Sheet

### REMARKS

Claims 1-54 are presented for further examination. Claims 1, 9, 11, 13, 14, 19, 27, 29, 34, and 47 have been amended.

In the Office Action mailed October 11, 2006, the Examiner objected to the drawings and to claims 4, 16, 30, 37, and 49 because the feature of “at least two nozzles” was not shown. Claims 1-19, 22, 25-40, 43, 46-50, and 53-54 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,624,393 (“Diamond”). Claims 20-21, 23-24, 41-42, 44-45, and 51-52 were rejected under 35 U.S.C. § 103(a) as obvious over Diamond in view of U.S. Patent No. 5,429,607 (“McPhee”).

Applicant respectfully disagrees with the bases for the rejections and requests reconsideration and further examination of the claims.

#### Drawing and Claim Objections

Applicant is submitting herewith a substitute Figure 3 showing the addition of a second dispensing nozzle 69 in combination with the first dispensing nozzle 68. The specification has been amended at page 8, line 2, to include the new reference number 69. No new matter has been added.

Line 10 of page 8 has also amended to delete a typographical error in that the extraneous word “has” is now deleted. Again, no new matter has been added.

Approval and entry of the amendments to page 8 and substitute Figure 3 is respectfully requested.

#### Claim Rejections

The Examiner has relied upon the Diamond reference, which the applicant has previously provided to the Examiner in the Information Disclosure Statement filed on October 23, 2003. Applicant is well aware of this reference and its shortcomings with respect to the present claimed device.

More particularly, Diamond describes an irrigation system for surgical instruments that utilizes an IV bag to gravity-feed irrigation fluid to a tube. The tube terminates

in a fixed nozzle attached to a surgical instrument. A thumb-actuated slider controls fluid flow through the tube. Plastic clips attach the tube and slider control to the handle of the surgical instrument by snapping on to the handle.

Diamond does not teach or suggest a number of features of the claimed device. For example, the IV bag of Diamond relies upon gravity to feed the fluid to the tube. In the present device, the fluid is stored under pressure. In addition, Diamond describes the use of C-shaped clips that are, at best, resilient but not stretchable in the manner of the sleeve of the present device. Diamond further shows and describes a nozzle that is fixed in its orientation and cannot be repeatedly bent to a desired position for directing fluid in a desired direction.

Turning to the claims, claim 1 is directed to a surgical irrigation device for use with a surgical tool that includes a stretchable sleeve configured for attachment to the tool, a conduit having a bendable distal tip and a proximal end, the conduit mounted on the sleeve, and a flow control mounted on the sleeve and associated with the conduit for controlling fluid flow through the conduit. As described above, nowhere does Diamond teach or suggest a stretchable sleeve configured for attachment to the tool. In the present device, the stretchable sleeve is adaptable for any size of tool. The bendable distal tip enables a user to direct the flow of fluid as desired. Nowhere does Diamond teach or suggest these features as recited in claim 1. Taken as a whole, applicant respectfully submits that claim 1 is clearly not anticipated by Diamond.

Claims 2-8, which all depend ultimately from claim 1, are allowable for the features recited therein as well as for the reasons why claim 1 is allowable. For example, claim 2 recites the sleeve being formed of expandable, compliant material. This is found at page 6, line 24 through page 7, line 2 of the present application. Nowhere does Diamond teach or suggest this aspect of the device.

Claim 3 recites the conduit comprising a tube formed of flexible material and the distal tip comprising a positionable nozzle portion. Claim 4, which depends from claim 3, recites the nozzle portion as comprising at least two nozzles, each of the at least two nozzles configured to be individually adjustable to a desired position and to retain the desired position. As described in the present specification at page 7, lines 22-24 and page 8, lines 1-9, this adjustable feature allows the dispensing of fluid in a direction desired by the user, and it can be

used to avoid hitting a bone or a saw blade when a saw blade is fully inserted in a bone. Nowhere does Diamond address or disclose these issues or features.

In view of the foregoing, applicant respectfully submits that claim 1 and dependent claims 2-8 are clearly allowable over Diamond.

Claim 9 is directed to a surgical irrigation device for use with a surgical tool that includes means for holding and pressurizing fluid, means for conducting fluid from the fluid holding and pressurizing means, a stretchable sleeve for releasably attaching the conducting means to the tool, and means for controlling flow of fluid through the fluid conducting means.

The Diamond reference does not teach or suggest pressurizing the fluid or providing a means for holding and pressurizing the fluid. Rather, it is a gravity-fed IV drip bag that provides the fluid. Also, as discussed above, Diamond does not teach or suggest the use of a stretchable sleeve for attaching a conducting means to the tool. In view of the foregoing, applicant respectfully submits that claim 9 is allowable.

Dependent claims 10-12 are allowable for the features recited therein as well as for the reasons why claim 9 is allowable. For example, claim 12 recites the dispensing means configured to be selectively positionable to a desired position and to retain the desired position. There is no teaching or suggestion of this aspect of the invention anywhere in Diamond.

Claim 13 is directed to a surgical irrigation system for use with a surgical tool that comprises a sleeve sized and shaped to be slidably received onto the surgical tool, a conduit mounted on the sleeve and having a bendable dispensing tip, a flow control mounted on the sleeve and associated with the conduit, and a reservoir coupled to the conduit. As discussed above with respect to claims 1 and 9, there is no teaching or suggestion in Diamond of the conduit having a bendable dispensing tip that enables repeated repositioning of the dispensing tip. Applicant respectfully submits that claim 13 and all claims depending therefrom, *i.e.*, claims 14-26, are allowable over Diamond. In addition, neither Diamond nor McPhee, taken alone or in any combination thereof, teach or suggest the features of the invention as set forth in claims 20-26 in combination with claim 13.

Independent claim 27 is directed to a surgical instrument that includes a surgical tool and a surgical irrigation device attached to the tool that comprises a sleeve attachable to the

tool, a conduit mounted on the sleeve and having a bendable nozzle portion to enable repeated selective positioning of the nozzle portion, and a flow control mounted on the sleeve and associated with the conduit. Applicant respectfully submits that independent claim 27 and all claims depending therefrom, *i.e.*, claims 28-33, are allowable for the reasons discussed above with respect to claims 1, 9, and 13, and their respective dependent claims.

Claim 34 is directed to a surgical instrument system having a surgical tool and a surgical irrigation system coupled to the tool that comprises a stretchable sleeve sized and shaped to be slidably received onto the surgical tool, a conduit mounted on the sleeve, a flow control mounted on the sleeve and associated with the conduit, and a reservoir coupled to the conduit. Independent claim 47 is directed to a single-use surgical irrigation system for use with a surgical saw having a cylindrical body to provide fluid for irrigation and cooling, the system having a sleeve formed of compliant material and sized to be slidable received over the cylindrical body on the tool and to retain its position on the cylindrical body, a fluid reservoir comprising a compressible container and a device for compressing the container, a tube mounted on the sleeve having a first end configured for dispensing fluid and a second end connectable to the fluid reservoir and comprising a nozzle portion that is bendable to enable selective positioning of the nozzle portion for directing fluid therefrom at a desired location. Claim 47 further recites a fluid control mechanism mounted on the sleeve and associated with the tube for controlling the volume of fluid passing through the tube from the reservoir to the nozzle portion and positioned to enable operation of the fluid control mechanism by one or more fingers of a user while holding the tool. Nowhere does Diamond teach or suggest a compressible container having a device for compressing the container. In addition, Diamond does not teach or suggest a bendable nozzle portion that enables repeated selective positioning of the nozzle portion for directing fluid therefrom at a desired location. Applicant respectfully submits that claim 47 is clearly allowable over Diamond, as is independent claim 34 and all claims depending from these respective independent claims.

In view of the foregoing, applicant submits all of the claims in this application are now in condition for allowance. In the event the Examiner finds minor informalities that can be resolved by telephone conference, the Examiner is urged to contact applicant's undersigned

representative by telephone at (206) 622-4900 in order to expeditiously resolve prosecution of this application. Consequently, early and favorable action allowing these claims and passing this case to issuance is respectfully solicited.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

All of the claims remaining in the application are now clearly allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC

/E. Russell Tarleton/

E. Russell Tarleton

Registration No. 31,800

ERT:jk

Enclosure:

1 Sheet of Drawings (Figure 3)

701 Fifth Avenue, Suite 5400  
Seattle, Washington 98104-7092  
Phone: (206) 622-4900  
Fax: (206) 682-6031

864313\_1.DOC